


FILED

MAY 14 1985

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CLERK, U. S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
By  DEPUTY CLERK

IN RE: )  
 )  
ORDER REFERRING BANKRUPTCY CASES )  
AND PROCEEDINGS TO BANKRUPTCY )  
JUDGES AND AUTHORIZING BANKRUPTCY ) GENERAL ORDER NO. 182  
APPEALS TO BE DECIDED BY THE )  
NINTH CIRCUIT BANKRUPTCY )  
APPELLATE PANEL )  
\_\_\_\_\_ )

PART I: REFERRAL OF BANKRUPTCY CASES AND PROCEEDINGS

The following provisions of the General Order of July 27, 1984 shall remain in full force and effect:

1.01 CASES AND PROCEEDINGS UNDER TITLE 11, UNITED STATES CODE

This court hereby refers to the bankruptcy judges of this district all cases under Title 11, and all proceedings arising under Title 11 or arising in or related to cases under Title 11.

1.02 CASES AND PROCEEDINGS UNDER THE BANKRUPTCY ACT OF 1898

The bankruptcy judges of this district shall hear and determine cases and proceedings arising under the Bankruptcy Act of 1898, as amended, pursuant to sec. 403(a) of the Bankruptcy Reform Act of 1978.

PART II: BANKRUPTCY APPEALS

2.01 BANKRUPTCY APPELLATE PANEL

(a) Pursuant to 28 U.S.C. §158(b)(2), this court hereby authorizes a bankruptcy appellate panel to hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges from this district, subject to the limitations set forth in subparagraphs (b)-(d).

(b) The bankruptcy appellate panel may hear and determine only those appeals in which all parties to the appeal consent thereto pursuant to paragraph 2.02 of this order.

(c) The bankruptcy appellate panel may hear and determine appeals from final judgments, orders, and decrees entered by bankruptcy judges and, with leave of the bankruptcy appellate panel, appeals from interlocutory orders and decrees entered by bankruptcy judges.

(d) The bankruptcy appellate panel may hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges after July 10, 1984, and appeals transferred to this court from the previous Ninth Circuit bankruptcy appellate panel by sec. 115(b) of the Bankruptcy Amendments and Federal Judgeship Act of 1984, P.L. 98-353. The bankruptcy appellate panel may not hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges between December 25, 1982, and July 10, 1984, under the Emergency Bankruptcy Rule of this district.

## 2.02 FORM AND TIME OF CONSENT

(a) The consent of a party to allow an appeal to be heard and determined by the bankruptcy appellate panel shall be deemed to have been given unless written objection thereto is timely made in accordance with Paragraph 2 of the Amended Order Establishing and Continuing the Bankruptcy Appellate Panel of the Ninth Circuit, a copy of which is attached to this order and incorporated herein by reference.

## 2.03 RULES GOVERNING BANKRUPTCY APPEALS

(a) Practice in such bankruptcy appeals as may come before this district court shall be governed by Part VIII of the Rules of Bankruptcy Procedure, except as provided in this order or in rules subsequently adopted by this district court.

(b) Notwithstanding subparagraph (a), the time for filing appellant's, appellee's, and reply briefs for consideration by the district court shall be 40 days, 30 days, and 14 days, respectively, in lieu of the time limits specified in Rule 8009(a) of the Rules of Bankruptcy procedure, provided, however, that the district court or the bankruptcy appellate panel may shorten these time limits in appropriate cases.

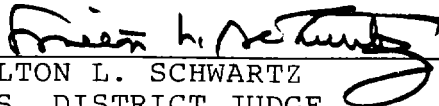
## PART III: EFFECTIVE DATE

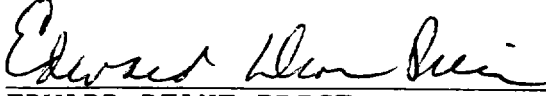
This order shall become effective immediately and supersede all previous orders of this court regarding bankruptcy cases, proceedings, and appeals provided, however, that all prior actions of the bankruptcy appellate panel not inconsistent herewith are not affected by this order.

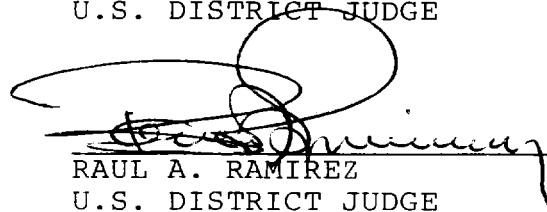
IT IS SO ORDERED.


Dated: May 14 , 1985.

  
LAWRENCE K. KARLTON  
CHIEF U.S. DISTRICT JUDGE

  
MILTON L. SCHWARTZ  
U.S. DISTRICT JUDGE

  
EDWARD DEANE PRICE  
U.S. DISTRICT JUDGE

  
RAUL A. RAMIREZ  
U.S. DISTRICT JUDGE

  
ROBERT E. COYLE  
U.S. DISTRICT JUDGE

  
EDWARD J. GARCIA  
U.S. DISTRICT JUDGE

JUDICIAL COUNCIL OF THE NINTH CIRCUIT

AMENDED ORDER ESTABLISHING AND CONTINUING  
THE BANKRUPTCY APPELLATE PANEL  
OF THE NINTH CIRCUIT

1. ESTABLISHMENT OF BANKRUPTCY APPELLATE PANEL

(a) Pursuant to 28 U.S.C. § 158(b)(1), the judicial council hereby establishes and continues a bankruptcy appellate panel to hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges from districts within the Ninth Circuit, subject to the limitations set forth in subparagraphs (b)-(e).

(b) The bankruptcy appellate panel may hear and determine only those appeals arising from districts that have authorized such appeals to be decided by bankruptcy appellate panels pursuant to 28 U.S.C. § 158(b)(2).

(c) The bankruptcy appellate panel may hear and determine only those appeals in which all parties to the appeal consent thereto pursuant to paragraph (2) of this order.

(d) The bankruptcy appellate panel may hear and determine appeals from final judgments, orders, and decrees entered by bankruptcy judges and, with leave of the district court or the bankruptcy appellate panel, appeals from interlocutory orders and decrees entered by bankruptcy judges.

(e) The bankruptcy appellate panel may hear and determine appeals from judgments, orders, and decrees entered after the district from which the appeal arises has issued an order referring bankruptcy cases and proceedings to bankruptcy judges pursuant to 28 U.S.C. § 157(a); and appeals transferred to the district court from the previous Ninth Circuit bankruptcy appellate panel by sec. 115(b) of P.L. 98-353. The bankruptcy appellate panel may not hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges between December 25, 1982 and July 10, 1984 under the Emergency Bankruptcy Rule.

2. FORM AND TIME OF CONSENT

(a) When a notice of appeal is filed with the clerk of the bankruptcy court, the appeal shall be referred immediately to the bankruptcy appellate panel. All parties to the appeal shall be notified of the filing and reference within the time and in the manner provided for in Paragraph 3 of this order. Unless a party

to the appeal files a written objection with the clerk of the bankruptcy appellate panel within twenty-one (21) days from the date of the filing of the notice of appeal the parties will be deemed to have consented to the hearing and the disposition of the appeal by the bankruptcy appellate panel pursuant to 28 U.S.C. § 158(b)(1).

### 3. NOTICE OF IMMEDIATE REFERENCE TO BANKRUPTCY APPELLATE PANEL

(a) Within three days after the filing of a notice of appeal, the clerk of the bankruptcy court shall serve upon all parties to the appeal a copy of the notice of appeal and a copy of this order. A copy of the notice of appeal shall also be transmitted to the clerk of the bankruptcy appellate panel. Upon receipt of the notice of appeal, the clerk of the bankruptcy appellate panel shall notify the parties of the procedures and requirements relating to practice before the bankruptcy appellate panel.

(b) Upon timely receipt of a written objection to an appeal being heard and determined by the bankruptcy appellate panel, the clerk of the bankruptcy appellate panel shall forthwith transfer the case to the appropriate district court and shall notify all parties to the appeal and the clerk of the bankruptcy court of the transfer. Any question as to the timeliness of an objection shall be referred by the clerk to a bankruptcy appellate panel motions panel for determination.

### 4. MOTIONS DURING OBJECTION PERIOD

All motions relating to the appeal shall be filed with the bankruptcy appellate panel unless the case has been transferred to a district court. The bankruptcy appellate panel may not dismiss or render a final disposition of an appeal within twenty-one days from the date of the filing of the notice of appeal but may otherwise fully consider and dispose of all motions. During these 21 days, any party may request of the bankruptcy appellate panel that a dispositive motion be transferred to the appropriate district court for consideration and disposition.

### 5. PANELS

Each appeal shall be heard and determined by a panel of three judges from among those listed pursuant to paragraph 5, provided however that a bankruptcy judge shall not participate in an appeal originating in a district for which the judge is appointed or designated under 28 U.S.C. § 152.

## 6. MEMBERSHIP OF BANKRUPTCY APPELLATE PANEL

(a) The judicial council shall designate bankruptcy judges to serve on the bankruptcy appellate panel after considering the recommendation of the Bankruptcy Courts Advisory Committee of the judicial council. Before submitting its recommendations as to the number and identity of judges to be appointed, the committee shall survey the bankruptcy judges in the circuit and an appropriate selection of attorneys.

(b) When a three-judge panel cannot be formed from the judges designated under subparagraph (a) to hear a case because judges from that list have recused themselves, are disqualified from hearing the case because it arises from their district, or are otherwise unable to participate, the Chief Judge of the Court of Appeals for the Ninth Circuit may designate one or more other bankruptcy judge(s) from the circuit to hear the case.

## 7. PRESIDING JUDGE

The members of the bankruptcy appellate panel by majority vote shall select one of their number to serve as presiding judge.

## 8. RULES OF PROCEDURE

(a) Practice before the bankruptcy appellate panel shall be governed by Part VIII of the Rules of Bankruptcy Procedure, except as provided in this order or by rule of the bankruptcy appellate panel adopted under subparagraph (b).

(b) The bankruptcy appellate panel may establish rules not inconsistent with the Rules of Bankruptcy Procedure governing practice and procedure before the panel.

## 9. PLACES OF HOLDING COURT

(a) The bankruptcy appellate panel may conduct hearings at such times and places as it determines to be appropriate.

(b) The bankruptcy appellate panel is hereby authorized to use courtrooms of the United States Court of Appeals in San Francisco, Pasadena, and Portland, and courtrooms of the United States District Courts in all districts in the Ninth Circuit.

10. CLERK AND OTHER EMPLOYEES

The bankruptcy appellate panel shall select and hire the Clerk of the bankruptcy appellate panel, staff attorneys, and other necessary assistants. The bankruptcy appellate panel shall determine the location of the principal office of the Clerk. The Clerk of the bankruptcy appellate panel may hire necessary assistants. Each judge on the bankruptcy appellate panel may hire an additional law clerk.

11. EFFECTIVE DATE

This amended order shall become effective on May 20, 1985, provided, however, that all prior actions of the bankruptcy appellate panel not inconsistent herewith are not affected by this order.

IT IS SO ORDERED.

DATED:

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James R. Browning, Chief Judge  
for the Judicial Council

FILED

SEP 21 1995

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BY

DEPUTY CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

IN THE MATTER OF ) GENERAL ORDER NO. 182-A  
)  
Reference of Jury Trials )  
in Bankruptcy Cases and )  
Bankruptcy Proceedings )  
to Bankruptcy Judges of )  
the Eastern District )  
of California )  
\_\_\_\_\_ )

WHEREAS, Public Law 103-394, 108 stat. 4106 allows the  
bankruptcy judges of this district to conduct jury trials  
pursuant to 28 U.S.C. § 157(e),

IT IS HEREBY ORDERED that General Order 182 be amended by  
adding:

"3.01 Each bankruptcy judge of the Eastern District of  
California is specially designated to conduct jury trials in core  
and non-core bankruptcy proceedings in cases commenced on or  
after October 22, 1994, upon the written consent of all parties  
to the action.

(a) If the parties consent to a jury trial before a  
bankruptcy judge, they are deemed to have also consented to:

(i) the application of all statutes of the

United States or the Federal Rules of Civil Procedure that govern district court jury trials until such time Federal Rules are modified to cover jury trials in the bankruptcy court.


(ii) the entry of a final order by the bankruptcy judge in a non-core proceeding.

(b) Jury trials in bankruptcy court shall be subject to the jury plan in effect for the Eastern District."

This General Order shall be effective October 1, 1995.

DATED: September 27<sup>th</sup> 1995

FOR THE COURT:

  
ROBERT E. COYLE, Chief Judge  
Eastern District of California